IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 165 OF 2007

MR. RAJENDRA MADHUKAR FALLARI AND 2 ORS. ... Petitioners

Versus

STATE OF GOA THROUGH THE CHIEF SECRETARY AND 5 ORS. ... Respondents

Mr. V. R. Tamba, Advocate for the Petitioners.

Mr. G. Shirodkar, Advocate for the Respondent Nos.1 and 2.

Mr. S. D. Padiyar, Advocate for the Respondent No.4.

Mr. A. N. S. Nadkarni and Mr. H. D. Naik, Advocates for the Respondent Nos.5 and 6.

Coram:- R. S. MOHITE &
N. A. BRITTO, JJ.

Date:- 27th August, 2007

P.C.:-

Heard both sides.

In the course of the hearing, the learned Counsel for the Respondent Nos.5 and 6 makes a statement that the Petitioner No.1 is in possession of the structures marked by Nos.37, 38 and 39, Petitioner No.2 is in possession of the structure marked by Nos.40 and 41 and Petitioner No.3 claims to be in possession of the structure shown at serial No.42 in the map at page 56 of the petition. He states that these structures bearing Chalta Nos. 37, 38, 39, 40, 41 and 42 will not be demolished except according to the procedure established by law. He further states that his clients will not obstruct the Petitioners from using the toilet which is situated in the structure bearing No.34. The toilet shown in Chalta No. 34 admittedly is a part of the structure erected in accordance with the approved development plan. The learned Counsel for the Respondent

Nos.5 and 6 states that as far as the toilet is concerned, the statement is without prejudice and that the user of the toilet will be without prejudice and not as a matter of right. The statements are accepted. The acceptance of the aforesaid statements will not preclude the Respondent Nos.5 and 6 from lodging or pursuing any proceedings in accordance with law. We have also seen the report filed by the Member Secretary of S.G.P.D.A., Margao which suggests that a ramp has been illegally constructed. The learned Counsel for the Respondent Nos.5 and 6 states that the said ramp is not in existence. The Respondent No.3 will be at liberty to take action in accordance with law, if the ramp is found to exist.

As far as prayer clause (a) is concerned, we find that the challenge is to a Development Permission, granted by the Respondent No.3 on 26-11-2001. The petition has been filed on 23-10-2007 i.e. almost after a period of six years.

In our view, the petition suffers from unexplained latches. We therefore consider the grant of prayer clause (a). The other grievances of the Petitioners stand redressed in view of the statements made and accepted.

In the circumstances, in view of the acceptance of the statements, the petition stands disposed of.

R. S. MOHITE, J.

N. A. BRITTO, J.

RD.